

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION**

**DEWAYNE LEATHERBERRY, INDIVIDUALLY, AND ON  
BEHALF OF ALL WHO ARE ENTITLED TO  
RECOVER UNDER THE WRONGFUL DEATH  
AND SURVIVAL STATUTE FOR THE DEATH  
OF ESTER THOMAS, DECEASED**

**PLAINTIFFS**

**VS.**

**CIVIL ACTION NO. 5:18-cv-00018-KS-MTP**

**METRO AMBULANCE SERVICE (RURAL), INC,  
D/B/A AMERICAN MEDICAL RESPONSE, INC.,  
JOHN DOE AND JOHN DOE ENTITIES**

**DEFENDANTS**

**PLAINTIFFS' RESPONSE TO  
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

**COME NOW**, the Plaintiffs, Dewayne Leatherberry *et al.* by counsel, and submit this their Response to the Motion for Summary Judgment filed by the Defendant, American Medical Response, Inc. (hereinafter "AMR") pursuant to Rule 56, Mississippi Rule of Civil Procedure; and respectfully request that this Court deny the motion, and as grounds for opposition respectfully state the following to-wit:

1. Admitted as to AMR breaching its contract and duty owed to the plaintiff. AMR consistently mis-identifies this case as being subject to medical malpractice standards.
2. The allegations contain in paragraph 2 of the defendant's motion for summary judgment are matters of law and do not establish the appropriate standard for this case.
3. Admitted that the defendant has designated these experts only, but not to the truth of the matter as stated in their opinions.
4. Denied. The Plaintiff has set forth a prima facie case of negligence, and breach of contract by the defendant AMR.

5. In support of their opposition and response to the defendant's Motion for Summary Judgment, the plaintiffs have attached the following as exhibits:

- a. AMR Run Report is attached as Exhibit "A" to the plaintiffs' Memorandum in Support of the Response to Motion for Summary Judgment;
- b. Deposition of Stan Alford, page 41 is attached as Exhibit "B" to the plaintiffs' Memorandum in Support of the Response to Motion for Summary Judgment.
- c. Deposition of Stan Alford, page 48 is attached as Exhibit "C" to the plaintiffs' Memorandum in Support of the Response to Motion for Summary Judgment.
- d. Affidavit of Dewayne Thomas is attached as Exhibit "D" to the plaintiffs' Memorandum in Support of the Response to Motion for Summary Judgment;
- e. Affidavit of Frank Davis and his contemporaneous notes are attached as composite Exhibit "E" to the plaintiffs' Memorandum in Support of the Response to Motion for Summary Judgment;
- f. Affidavit of Robert Harris is attached as Exhibit "F" to the plaintiffs' Memorandum in Support of the Response to Motion for Summary Judgment;
- g. Deposition of Stan Alford, Ambulance Service Agreement, attached as Exhibit 5 thereto, to the plaintiffs' Memorandum in Support of the Response to Motion for Summary Judgment.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs Dewayne Leatherberry *et al.* respectfully request that this Court deny defendant's Motion for Summary Judgment and that all Defendant's claims be dismissed.

Respectfully submitted,

DEWAYNE LEATHERBERRY, INDIVIDUALLY,  
AND ON BEHALF OF THE WRONGFUL DEATH  
BENEFICIARIES OF ESTER THOMAS,  
DECEASED

BY: s/ Larry Stamps  
LARRY STAMPS, MSB #7773  
ATTORNEY FOR THE PLAINTIFFS

OF COUNSEL:

STAMPS & STAMPS  
ATTORNEYS AT LAW  
POST OFFICE BOX 2916  
JACKSON, MISSISSIPPI 39207-2916  
269 EAST PEARL STREET  
JACKSON, MISSISSIPPI 39201  
TELEPHONE: (601) 354-4747

**CERTIFICATE OF SERVICE**

I, the undersigned attorney for the plaintiffs, hereby certify that I have on this date, electronically filed the foregoing with the Clerk of the Court, using the ECF system, which sent notification of such filing to the following:

Tom Julian, Esq.  
Daniel Coker Horton and Bell, PA  
4400 Old Canton Road, Suite 400  
Post Office Box 1084  
Jackson, Mississippi 39215-1084

THIS, the 22<sup>nd</sup> day of January, 2019.

s/ Larry Stamps  
ATTORNEY FOR THE PLAINTIFFS